

216214

STATE OF SOUTH CAROLINA

(Caption of Case)

Judy B. Roof,

Complainant/Petitioner

v.

Utilities Services of South Carolina, Inc.

Defendant/Respondent.

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

## COVER SHEET

DOCKET

NUMBER: 2009 - 99 - W

(Please type or print)

Submitted by: John M. S. HoeferSC Bar Number: 2549Address: Post Office Box 8416Telephone: 803-252-3300Columbia, South Carolina 29202Fax: 803-771-2410

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## DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition      ☒ Request for item to be placed on Commission's Agenda expeditiously

☐ Other: \_\_\_\_\_

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
<input type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification
<input type="checkbox"/> Electric/Telecommunications	<input checked="" type="checkbox"/> Answer	<input checked="" type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena
<input checked="" type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other:
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit	
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report	

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April 8, 2009

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**VIA ELECTRONIC FILING**  
**AND U. S. MAIL**

The Honorable Charles L.A. Terreni  
Chief Clerk/Administrator  
**Public Service Commission of South Carolina**  
Post Office Box 11649  
Columbia, South Carolina 29211

RE: Judy B. Roof, Complainant/Petitioner v. Utilities Services of South Carolina, Inc.,  
Defendant/ Respondent.  
Docket No.: 2009-99-W

Dear Mr. Terreni:

Enclosed for filing on its behalf of Utilities Services of South Carolina, Inc. ("USSC") are the original and one (1) copy of its Motion to Dismiss and its Answer in the above-referenced matter. By copy of this letter, I am serving a copy of these documents upon the parties of record and enclose a Certificate of Service to that effect.

I would appreciate your acknowledging receipt of these documents by date-stamping the extra copy that is enclosed and returning the same to me in the self addressed enveloped enclosed.

If you have any questions, or if you need any additional information, please do not hesitate to contact me.

Sincerely,

**WILLOUGHBY & HOEFER, P.A.**

/s/ John M. S. Hoefer

John M. S. Hoefer

JMSH/ccm

Enclosures

cc: Jeffrey M. Nelson, Esquire  
Judy B. Roof

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2009-99-W**

IN RE:

Judy B. Roof,  
Complainant/Petitioner

v.

Utilities Services of South Carolina, Inc.,  
Defendant/Respondent

**CERTIFICATE OF SERVICE**

This is to certify that I have caused to be served this day one (1) copy of Defendant's **Answer and Motion to Dismiss** in the above-referenced action by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

Judy B. Roof  
229 Dutchman Shores Circle  
Chapin, SC 29036

Jeffrey M. Nelson, Esquire  
**Office of Regulatory Staff**  
Post Office Box 11263  
Columbia, South Carolina 29211

/s/ Cindy C. Mills  
Cindy C. Mills

Columbia, South Carolina  
This 8<sup>th</sup> day of April, 2009.

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2009-99-W**

IN RE:	)	
	)	
Judy B. Roof,	)	
Complainant/Petitioner	)	
	)	
v.	)	<b>ANSWER</b>
	)	
Utilities Services of South Carolina, Inc.,	)	
Defendant/Respondent	)	
_____	)	

Pursuant to 26 S.C. Code Ann. Regs. 103-826 and 103-830, and in compliance with the Notice issued by the Commission’s Chief Clerk and Administrator dated March 5, 2009, and incorporating all defenses heretofore raised by motion and reserving all defenses which may hereafter be raised by motion, Utilities Services of South Carolina, Inc. (“USSC”) answers the Complaint/Petition of the complainant/petitioner above-named as follows:

**FOR A FIRST DEFENSE**

1. USSC denies each and every allegation of the Complaint/Petition except as hereinafter admitted, modified or qualified.

**FOR A SECOND DEFENSE**

2. The portions of the Complaint/Petition beginning on the first un-numbered page consisting of paragraphs 1-7 under the heading “**Summary of relief sought from the Commission**” do not allege a specific act or failure to act on the part of USSC and therefore do not require a response. To the extent that the seven (7) numbered paragraphs may be read to allege a specific act

or failure to act on the part of USSC, same is denied and the response below to each separate “Item” of the Complaint/Petition is incorporated herein by this reference. The portions of the Complaint/Petition beginning on the first un-numbered page consisting of two (2) un-numbered paragraphs incorporating statutory references under the heading “**Statutory or other legal authority under which the pleading is filed**”, do not allege a specific act or failure to act on the part of USSC and therefore do not require a response. To the extent that these two un-numbered paragraphs may be read to allege a specific act or failure to act on the part of USSC, same is denied and the response below to each separate “Item” of the Complaint/Petition is incorporated herein by this reference.

### **FOR A THIRD DEFENSE**

#### **(Lack of Jurisdiction – Failure to Exhaust Statutory Remedy)**

3. Because the Complaint/Petition is an individual consumer complaint, it is required by S.C. Code Ann. §58-5-270 (Supp. 2008) to be mediated before the Office of Regulatory Staff (“ORS”). USSC states that it has cooperated and worked closely with ORS to respond to inquiries made by ORS to provide it with information regarding the issues raised by complainant/petitioner in this matter. Moreover, ORS has conducted a thorough and vigorous investigation of such matters. USSC has not, however, had an opportunity to participate in a mediation session with the complainant/petitioner before ORS and is willing to do so. In light of the mediation requirement of §58-5-270, USSC therefore cannot agree that the Commission has jurisdiction in this matter. To the extent that the Complaint/Petition purports to state any complaint other than an individual consumer complaint on behalf of complainant/petitioner, USSC denies that the Commission has jurisdiction.

**FOR A FOURTH DEFENSE**

**(Failure to State Facts Sufficient)**

4. The Complaint/Petition fails to state facts sufficient to constitute a cause of action. See S.C. Code Ann. § 58-5-270 (Supp.2008) and Commission Regulations RR. 103-819 and 824.

**FOR A FIFTH DEFENSE**

**(Standing)**

5. The complainant/petitioner lacks standing to assert any claim on behalf of any individual or entity other than herself.

**FOR A SIXTH DEFENSE**

6. Responding to the un-numbered paragraphs contained on the third un-numbered page of the Complaint/Petition and set forth under the heading “**Item 1 – Pass-Through Detailed justifications for relief sought from Commission**”, USSC states as follows:

- a. USSC denies that the pass-through provision in its rate schedule is the same, operates the same, or is required to be or operate the same, as the periodic rate increases approved for Kiawah Island Utilities, Inc. (“KIU”) in Docket No. 2001-164-W/S. The KIU rate schedule does not contain a pass-through provision of the type approved by the Commission for USSC. The former permits KIU to only increase its **approved** rate for water service to a customer by the amount of any documented increase in the cost of purchased water acquired by KIU from the St. John’s Water Company. By contrast, the pass-through provision in USSC’s approved rate schedule is a means by which the charges imposed by a provider of

bulk water service are passed through directly to the customer on a pro-rata basis without markup.

- b. The pass-through provision of USSC's rate schedule is deemed just and reasonable as a matter of law inasmuch as it has been approved by the Commission. Similarly, the distribution charge provision of USSC's rate schedule is deemed just and reasonable. Rate design is a matter within the discretion of the Commission. USSC would note that elimination of the pass-through provision and/or alteration of distribution charge provision of its approved rate schedule would affect all USSC customers in that it would result in increases in monthly bills for some customers and decreases in monthly bills for other customers. Inasmuch as the instant complaint/petition is not one brought on behalf of the general body of ratepayers (see S.C. Code Ann. §58-5-270), this issue may not be addressed in this proceeding. *See also* S.C. Const. art. I, §22, S.C. Code Ann. §1-23-320 (A) and (B) (Supp. 2008). USSC denies that either the pass-through provision or the distribution charge authorized under its Commission approved rate schedule is in any way improper.
- c. The allegation that "[d]istribution-only consumers pay for water lost between master meter and individual meters" is denied to the extent that it is intended to suggest that other customers of USSC who do not receive distribution only water service do not share in the cost of unaccounted for water. Moreover, USSC submits that unaccounted for water at a level of 10% or lower has been deemed to be acceptable by this Commission for ratemaking purposes.

d. With respect to the allegation that unaccounted for water in the Dutchman Shores subdivision during the period of September 2007 through August of 2008 was 13.23%, this portion of the Complaint/Petition is unsupported. Moreover, this portion of the Complaint/Petition fails to set forth grounds for action by the Commission under S.C. Code Ann. §58-5-290 inasmuch as (1) the level of unaccounted for water will vary with any given twelve month period and must be considered in view of other twelve month periods in which unaccounted for water is less than 10% and (2) the cost of unaccounted for water is spread out over the entire USSC customer base in both distribution only charges, basic facilities charges, and commodity charges. No special conditions have been plead which would warrant different treatment for this customer or her subdivision than that accorded other customers or subdivisions served by USSC with respect to unaccounted for water levels. In further response to this portion of the complaint/petition, USSC incorporates by reference paragraph 10(a), *infra*.

e. USSC denies that “[d]istribution-only customers pay a distorted percentage of USSC’s distribution costs” or that there is no “documentation...supporting the distribution charge per 1000 gallons.” The distribution charge approved by the Commission in Docket No. 2005-217-WS is deemed just and reasonable as a matter of law and the complaint/petition demonstrates no basis for a determination to the contrary. Moreover, the distribution charge in that docket was arrived at only after an audit of USSC was conducted by ORS, a settlement agreement between ORS and USSC submitted to the Commission for its review, and the rates contained therein



approved by the Commission. Similarly, the distribution charge set forth in the rate schedule placed into effect under bond is the same as that proposed to the Commission by ORS in Docket No. 2007-286-WS after another audit of USSC.

f. USSC admits that it has given the Commission notice of a bulk rate increase for the City of West Columbia as contemplated by Order No. 2006-22, issued January 19, 2006, in Docket No. 2005-217-WS. USSC denies that it has received any notice of an increase in bulk rates from the City of Columbia, or any other bulk supplier except the City of West Columbia. Further responding to this portion of the complaint/petition, USSC submits that strict compliance with the requirements of Order No. 2006-22 in this regard has been previously waived by the Commission in recognition of the fact that governmental entities frequently do not provide adequate notice of increases in bulk rates. See Order No. 2006-603, Docket No. 2005-217-WS. The documented efforts of the ORS, at the Commission's request, to address the need for notice of increases in bulk rates have not, to USSC's knowledge, met with success. See November 14, 2006, letter of Wendy B. Cartledge, Esq. to Charles L. A. Terreni in Docket No. 2005-217-WS. Additionally, USSC would note that it has supplied to the Commission notice of an impending increase in bulk service rates by the Hammond Water District, which does not serve USSC in the subdivision in which complainant/petitioner resides, by correspondence in Docket No. 2005-217-WS dated March 24, 2009, and that the Commission has issued a directive granting USSC a similar waiver. Further responding to this portion of the complaint/petition, USSC submits that the amount of water supply charges shown on a customer bill can

be affected not only by the underlying bulk rate imposed by the governmental provider, but also the timing and frequency of bulk bills versus utility customer bills, customer consumption relative to other customer consumption in a given subdivision in a given billing period, water used in maintenance (*e.g.*, flushing) and the amount of unaccounted for water in a given billing period. USSC denies that it “is not incented to control water loss” given that it routinely reports unaccounted for water figures to ORS. USSC denies that adjustments for individual consumer leaks are relevant to the pass-through provision in its rate schedule. USSC denies that complainant/petitioner is “paying 212-238% of [her] neighboring subdivisions for the same water” or that a comparison of governmental rates with those of a public utility is pertinent. Further responding to this portion of the Complaint/Petition, USSC submits that, during the period complainant/petitioner asserts, her average monthly usage was 7,221 gallons, and using current rates for USSC, the Town of Chapin and the City of Columbia, complainant/petitioner pays approximately 70% to 150% more for water from USSC than she would have from these governmental entities.

g. With respect to the request of complainant/ petitioner that the Commission eliminate the currently approved pass-through provision of USSC’s rate schedule, USSC submits that rate design is a matter within the discretion of the Commission, but would note that elimination of the pass-through provision would require increases in basic facilities charges and/or commodity charges for all customers and would result in some customers seeing higher rates in order for USSC to be allowed

to earn its authorized rate of return on rate base. Also, see paragraph 6 (b), *supra*. Further responding to this portion of the complaint/petition, USSC submits that its rates may not be established based upon “competitive” or “marketplace” rates, but have been, and must continue to be, established based upon revenues sufficient to recover USSC’s expenses and a fair rate of return on its investment.

7. Responding to the un-numbered paragraph contained on the eighth un-numbered page of the Complaint/Petition and set forth under the heading “**Item 2– Water Pressure Detailed justifications for relief sought from Commission**”, USSC states as follows:

a. USSC denies that the allegations set forth in this portion of the Complaint/Petition bear on its service to complainant/petitioner inasmuch as complainant/petitioner has alleged no matter regarding water pressure at her residence.

b. Further responding, USSC admits that water pressure testing that it conducted at 221 Dutchman Shores Circle during the period October 11 through October 15 of 2008 exceeded 125 PSI, although by no more than 10%, at various times during these days. USSC denies that same caused USSC to be “out of compliance” with 26 S.C. Code Ann. Regs. R.103-774.A.2. When the pressure was measured at this location, it was elevated as a result of increases in pressure in the City of Columbia water distribution system which were caused by (i) main breaks in the City’s system (ii) which led to malfunctions in water pump control valves on the City’s system that caused increases in water pressure in the USSC system. Both of these events were beyond USSC’s control. Further responding to this portion of the complaint/petition,

USSC submits that it has cooperated fully with ORS in its investigation of the matter and, in that regard, has provided to ORS documentation of the City's responsibility for the increased pressure and the City's steps to address and correct the problem. In addition, USSC has installed digital pressure recording devices at various locations in the Dutchman Shores Subdivision for the purpose of testing pressure at 10%-15% of all service locations in order to provide ORS with a broad-based study of pressure levels in the subdivision and has conducted separate meter accuracy tests at all service locations subjected to pressure testing. To USSC's knowledge, there are no current customer complaints regarding excess pressure in the Dutchman Shores Subdivision. With respect to the request of complainant/petitioner that the Commission order "regular pressure tests in all subdivisions...or...in subdivisions where water pressure problems have been identified or suspected", USSC submits that no facts supporting such an order have been plead and that complainant/petitioner lacks standing to seek such relief.

c. In response to the request of complainant/petitioner that "a program be enacted to encourage *more acceptable water pressure of around 60 PSF*", USSC submits that suitable water pressure is a matter of Commission regulation and that the relief requested cannot be granted in the instant proceeding. *Cf.* S.C. Code Ann. §§1-23-110 through 1-23-130. (2005, as amended). Moreover, by virtue of Lexington County Building Code Ordinance Section 1.4.4, incorporating Section 604 of the International Plumbing Code (copies attached as Exhibit "A"), a water pressure reducing valve is required in dwellings which are served by jurisdictional

water utilities in that county since the cited Commission regulation allows water pressure up to 125 PSI. Complainant/Petitioner resides in Lexington County and is required to have a water pressure reducing valve installed at her premises if she does not already have such a device installed.

8. Responding to the un-numbered paragraphs beginning on the ninth un-numbered page of the Complaint/Petition and set forth under the heading “**Item 3– Reimbursement Detailed justifications for relief sought from Commission**”, USSC states as follows:

a. As the Commission is aware, in 2008 USSC converted to a new computer software and hardware system pursuant to the recommendation made in the Management Audit conducted of Utilities, Inc. and its subsidiaries by Schumacher and Company at the request of ORS. One feature of the new computer operating system, which USSC brought on line on June 2, 2008, is a program called “Customer Care and Billing” (“CCB”) which handles all of the customer consumption and billing functions. In the transition to CCB from USSC’s prior billing system, an error occurred in which delayed the issuance of some customer bills. In the case of complainant/petitioner, the error resulted in her not being issued an invoice for services provided during the period May 21, 2008 through August 20, 2008, until October 2, 2008. This error was noted on complainant/petitioner’s October 2, 2008, statement with an apology and an offer for a deferred payment plan, which offer complainant/petitioner has not accepted.

b. USSC denies that Exhibit “I” attached to the complaint/petition in Docket No. 2009-39-W demonstrates an “unexplained consumption increase during a one

year period 2007-2008 by master meter for Dutchman Shores” subdivision inasmuch as it does not reflect what amount of consumption was *billed* to USSC in the prior year. Further responding to this allegation, USSC states that the “Consumption 1 Year Ago” figures set forth on the City of Columbia bulk bills included in said Exhibit “I” are incorrect. It appears that the City of Columbia billing system has certain limitations with respect to the graphic display of current and prior year consumption which affect the prior year consumption figures on the bulk bills submitted to USSC. Incorporated herein by reference is USSC’s Answer Exhibit “C” in Docket No. 2009-39-W, which is a one (1) page schedule reflecting the consumption billed to USSC by the City of Columbia for the same one year period in 2006-2007 and copies of the underlying invoices to USSC by the City of Columbia. This exhibit demonstrates not only that USSC did not have higher bulk consumption in 2007-2008 than in the prior year, but actually had 1,024,083 gallons less consumption in 2007-2008 than in the prior year.

c. With respect to the assertion that reimbursement should be made based upon “normal average consumption” for the period running “from May 2008 through the time high pressure or other established cause of high consumption is identified”, USSC submits that complainant/petitioner has failed to allege any facts supporting a contention that high-pressure caused excessive consumption at her residence. USSC further notes that complainant/petitioner has not specified any time frame within which the alleged “high pressure” circumstance identified in Docket No. 2009-39-W affected complainant/petitioner. USSC further notes that complainant/petitioner’s

consumption average for a period subsequent to May 2008 alone would not bear on the issue raised by complainant/petitioner. See paragraph 14(b), *infra*.

d. With respect to the assertion that reimbursements should be made for “costs incurred as a result of high water pressure for any affected consumer”, USSC denies that the Commission has authority to award damages or that any claim has been or may be stated by complainant/petitioner on behalf of “any [other] affected consumer.” Further responding, USSC submits that no claim for such reimbursement is stated and that complainant/petitioner may not later “attach evidence, or bring to [her] hearing, any supporting documentation in this regard” as permitting same would violate USSC’s administrative due process rights.

9. Responding to the un-numbered paragraphs beginning on the tenth un-numbered page of the Complaint/Petition and set forth under the heading “**Item 4– Timely Billing Detailed justifications for relief sought from Commission**”, USSC states as follows:

a. USSC admits that it did not timely bill some customers for June and July services and acknowledges that customers are supposed to be billed by USSC monthly. As previously stated, this omission was caused by errors associated with the conversion of USSC’s billing system to the CCB program. These errors have now been largely corrected and USSC does not anticipate that an error on the scale experienced in the summer of 2008 will recur. As noted above, USSC has offered complainant/petitioner the opportunity to defer payment for accumulated charges resulting from the computer error, but she has not accepted same. USSC truly

regrets the inconvenience this error may have caused to complainant/petitioner and other customers.

b. With respect to the request of complainant/petitioner that USSC be required “to provide an alternate means of consumer access to consumption levels during periods when bills cannot be sent in a timely fashion”, USSC reiterates that it does not expect the billing anomaly caused by the errors occurring during the transition to CCB to recur. Further, USSC states that once the errors causing the delayed billings were discovered, information pertaining to the problem was posted on the internet at <http://www.utilitiesinc-usa.com/ccbfaq.php> However, should a customer not receive a timely bill in the future, USSC may be contacted directly by telephone call to the customer service center at the number printed on customer invoices or via the internet at <http://www.utilitiesinc-usa.com/index.php> and initiate an inquiry regarding a delayed bill. USSC does not currently have the capability to allow customers to ascertain current consumption levels via a portal on its website. This information may be obtained by contacting USSC’s customer service center via telephone or internet inquiry.

10. Responding to the un-numbered paragraphs beginning on the eleventh un-numbered page of the Complaint/Petition and set forth under the heading “**Item 5– Reporting Detailed justifications for relief sought from Commission**”, USSC states as follows:

a. In addition to the matter stated at paragraph 6(d), *supra*, USSC states that the allegations regarding perceived discrepancies in water produced and water billed by USSC fail to take into account that the time periods associated with the data supplied



by USSC to ORS (that is attached to the complaint/petition in Docket No. 2009-39-W as Exhibit “K” and referenced in this portion of the Complaint/Petition) do not precisely match the time periods associated with the City of Columbia bulk bills to USSC (attached to the complaint/petition in Docket No. 2009-39-W as Exhibit “I”). Further, neither of the time periods in said Exhibits “I” and “K” coincide with USSC’s billing cycles and therefore do not “match” with billed customer consumption. USSC submits that a comparison of the data in these two exhibits does not demonstrate any act or failure to act on the part of USSC. See S.C. Code Ann. §58-5-270. Further responding to this portion of the complaint/petition, USSC states that it has cooperated fully with ORS in its investigation and study of unaccounted for water issues involving not only the USSC system serving Dutchman Shores, but every USSC system which is the subject of ORS inquiry. In that regard, USSC has provided copies of all documentation requested of it by ORS.

b. USSC denies that including data for the months of September and October of 2008 in the schedule of water production versus water sold that it supplied to ORS was “added... to defray the appearance of ‘extreme’ water loss” or an “attempt[] to hide water loss.” To the contrary, it is necessary that this data be included to provide a true picture of the effect of the CCB billing errors described in paragraph 9(a), *supra*.

c. USSC denies that a misreading of the meter at 132 Harding Street should not be considered in determining unaccounted for water. When a customer meter is misread, it bears on the unaccounted for water calculation inasmuch as a high

misread (such as that which occurred with the customer premises at 132 Harding Street) results in a report of more water being sold than was actually sold. Further responding to this portion of the complaint/petition, USSC submits that if this adjustment were not shown in the data supplied to ORS that has been attached as Exhibit “K” to the complaint/petition in Docket No. 2009-39-W, the amount of unaccounted for water would actually be understated.

d. USSC denies that the customer at 132 Harding Street did not receive an adjustment for an 895 gallon water leak. USSC states that the adjustment for this leak, which occurred in January of 2008, was accounted for in that customer’s April 7, 2008 invoice, documentation of which has been provided to ORS.

e. With respect to complainant/petitioner’s contention that usage of 40,000 gallons for system flushing in the months of September, October and November, 2007, is questionable, USSC states that gallons used in system flushing are calculated based upon estimated flows from either hydrants or “blow-offs” and that USSC operators base their estimates on their years of experience in the field performing what is a necessary and routine maintenance task. USSC states that extensive flushing during this period was required to address the effects of the City of Columbia main breaks described in paragraph 7(a), *supra*. Further responding to this portion of the complaint/petition, review of flow at a bulk master meter will not record gallons used in flushing since flow at the master meter reflects customer consumption and system usage.

f. USSC denies that complainant/petitioner, or any customer in Dutchman Shores, has been “over-charged” for bulk water as a result of unaccounted for water levels and submits that no reimbursement is due or required.

11. Responding to the un-numbered paragraph beginning on the twelfth un-numbered page of the Complaint/Petition and set forth under the heading “**Item 6– Scrutinize Cost Basis Detailed justifications for relief sought from Commission**”, USSC states as follows:

a. USSC denies that allocation of “employee labor costs” to USSC in the establishment of its rates – both approved and in effect under bond – places a greater share of employee expenses on customers of USSC than on customers of the other operating subsidiaries of Utilities, Inc. that are jurisdictional utilities in South Carolina.

b. USSC denies that the allocation of “employee labor costs” correlates to the level of distribution charges for customers receiving bulk water.

c. Further responding to this portion of the complaint/petition, USSC incorporates paragraph 6(b), *supra*.

d. With respect to the request of complainant/petitioner for “detailed financials outlining allocation of costs incurred in distribution-only service to [customers in Dutchman Shores] and Utilities, Inc. (*sic*) other water companies”, USSC states that distribution charges are not established by any direct correlation between such allocated costs, but are a function of rate design approved by the Commission after a determination is made of *all* allowable costs and an appropriate return on investment specific to USSC. Further responding to this portion of the complaint/petition,

USSC states that it does not maintain records “outlining the allocation of costs incurred in distribution-only service”, but that audit reports prepared by ORS in Docket Nos. 2005-217-WS and 2007-286-WS are publicly available to complainant/petitioner from either the files of the Commission or ORS.

12. Responding to the un-numbered paragraph beginning on the thirteenth un-numbered page of the Complaint/Petition and set forth under the heading “**Item 5– Consolidation Basis Detailed justifications for relief sought from Commission**”, USSC states as follows:

a. This portion of the Complaint/Petition does not identify the proceeding with which complainant/petitioner seeks consolidation. Although the portion of the Complaint/Petition under the heading “Summary of Relief Sought” references Docket No. 2009-39-W, said reference does not comport with the requirements of 26 S.C. Code Ann. Regs. R. 103-804.O, R. 103-819, and R.103-829 (Supp. 2008) and said request was not submitted to the Commission as a motion. See Cover Sheet, Docket No. 2009-75-W. Nor is any motion shown as pending in this docket on the Commission’s docket management system. Accordingly, there is no proper request for consolidation before the Commission.

b. Even assuming that a proper request for consolidation is before the Commission, which is disputed, the request is not sufficient under 26 S.C. Code Ann. Regs. R. 103-840, in that complainant/petitioner has failed to do anything other than cite the regulation, paraphrase some of its terms, and state (in effect) that administrative economy would be served by reducing multiple proceedings without any factual basis for same. USSC submits that these statements are insufficient to

allege, much less establish, grounds for consolidation inasmuch as no specific statement of how the issues of law and fact are similar in the two dockets. *Cf. In Re: Application of Carolina Water Service, Inc. for Approval of a Transfer*, Order No. 96-756, Docket No. 96-235-W/S, October 31, 1996 (holding that a general allegation that consolidation is appropriate under former S.C. Code Ann. Regs. R. 103-864 (1976) with no specific assertion as to how issues of law and fact are similar in two separate dockets is insufficient basis to consolidate cases).

c. Again assuming that a proper request for consolidation is before the Commission, which is disputed, USSC submits that individual consumer complaints must be mediated by ORS in accordance with S.C. Code Ann. §58-5-270 (Supp. 2008) and, until such time as the instant Complaint/Petition has been so mediated, the assertion that the two dockets involve a similar question of law or fact is speculative.

d. Continuing to assume that a proper request for consolidation is before the Commission, which is disputed, USSC submits that the rights of USSC will be prejudiced since the facts and circumstances involving separate customer accounts, consumption amounts, and bases for disputing consumption are significantly different. Similarly, the complaint/petition in Docket No. 2009-39-W contains allegations of fact and assertions of law different than those found in the instant case and will create confusion in evidentiary presentations that will not be conducive to administrative economy or in the public interest.

e. Finally, if the Commission is disposed to grant the request for consolidation, USSC submits that procedural safeguards should be implemented to insure fairness and economy in the process. Specifically, USSC avers that on any issue of law or fact determined by the Commission to be similar, the individual complaining consumers in any consolidated docket(s) be limited to presenting a single evidentiary witness on any such fact issue and a single legal argument on any such legal issue.

13. The portions of the Complaint/Petition beginning on the fourteenth un-numbered page consisting of four un-numbered (a) paragraphs under the heading “**Closing**” do not allege a specific act or failure to act on the part of USSC (not otherwise addressed hereinabove) and therefore do not require a response. To the extent that these un-numbered paragraphs may be read to allege a specific act or failure to act on the part of USSC, same are denied. USSC denies that complainant/petitioner is entitled to “rate relief.” Further responding to this portion of the Complaint/Petition, USSC states that it is willing to consider any offers it receives for the purchase of the subject system, but has received no such offers. In addition to governmental entities and other public utilities, USSC notes that the customers could acquire and operate the system themselves and be exempt from economic regulation should they so choose. See 26 S.C. Code Ann. Regs. R. 103-702.7.

14. To the extent that the two (2) page document dated November 25, 2008, purporting to be a copy of a letter from complainant/petitioner addressed to USSC may be read to allege an act or failure to act on the part of USSC, the Company denies same. USSC further states that it is without sufficient information so as to enable it to form a belief as to the accuracy of the calculations set forth thereon and same are therefore denied. Further responding, USSC states as follows:

- a. On or about October 13, 2008, complainant/petitioner contacted USSC and spoke with Customer Service Representative Whitney Jeffcoat and was advised that USSC would test complainant's/petitioner's meter.
- b. On October 15, 2008, USSC tested complainant's/petitioner's meter and determined that it was registering accurately. A copy of the results of this meter test are attached hereto as Exhibit "B".
- c. On October 16, 2008, complainant/petitioner contacted the Office of Regulatory Staff ("ORS") to complain about her statement dated October 2, 2008.
- d. On October 21, 2008, complainant/petitioner called USSC and spoke with customer service representative Annette Bailey and disputed the accuracy of the meter test results. At that time, complainant/petitioner was offered a four month deferred payment plan on her account to address the fact that her October 2, 2008, statement covered a ninety-one day period. Complainant/Petitioner advised USSC at that time that she intended to contact the Commission.
- e. On October 30, 2008, USSC reported to ORS the results of USSC's investigation of complainant's/petitioner's account.
- f. For the period July 9, 2008, until March 4, 2009, complainant/petitioner paid USSC nothing on her account, including any amount under the deferred payment plan offered to her on October 21, 2008.
- g. For the period of August 15, 2007 through May 21, 2008, complainant/petitioner consumed 46,220 gallons, which is an average of 5,135 gallons per month. By contrast, for the period of August 20, 2008 through January

20, 2009, complainant/petitioner consumed 29,242 gallons, which is an average of 5,848 gallons per month. These amounts, which are not challenged by complainant/petitioner, were measured using the same meter as that used to measure consumption by complainant/petitioner during the period in dispute.

h. USSC acknowledges that, had a bill been issued to complainant/petitioner in July, August or September, the increased consumption would have been recognized by complainant/petitioner sooner. However, USSC submits that the water billed passed through an accurately reading meter.

WHEREFORE, having fully set forth its Answer, USSC requests that the Commission issue an order dismissing the Complaint/Petition and granting such other and further relief to USSC as is just and proper.

/s/ John M. S. Hoefer  
John M.S. Hoefer  
Benjamin P. Mustian  
**WILLOUGHBY & HOEFER, P.A.**  
Post Office Box 8416  
Columbia, South Carolina 29202-8416  
803-252-3300  
Attorneys for Defendant/Respondent

Columbia, South Carolina  
This 8th day of April, 2009



# Building Code Ordinance

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County of Lexington



Adopted April 8, 2008

and related accessories as covered in this code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories.

**1.4.3 Mechanical.** The provisions of the *International Mechanical Code* shall apply to the installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems.

**1.4.4 Plumbing.** The provisions of the *International Plumbing Code* shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system.

**1.4.5 Fire Prevention.** The provisions of the *International Fire Code* shall apply to matters affecting or relating to structures, processes and premises from the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; from conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration or removal of fire suppression and alarm systems or fire hazards in the structure or on the premises from occupancy or operation.

**1.4.6 Energy Conservation.** The provisions of the *International Energy Code* shall regulate the design of building envelopes for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, service water-heating, and illumination systems and equipment which will enable effective use of energy in new building construction. It is intended that these provisions provide flexibility to permit the use of innovative approaches and techniques to achieve effective utilization of energy.

**SECTION 604**  
**DESIGN OF BUILDING WATER**  
**DISTRIBUTION SYSTEM**

**604.8 Water-pressure reducing valve or regulator.** Where water pressure within a building exceeds 80 psi (552 kPa) static, an approved water-pressure reducing valve conforming to ASSE 1003 with strainer shall be installed to reduce the pressure in the building water distribution piping to 80 psi (552 kPa) static or less.

Exception: Service lines to sill cocks and outside hydrants, and main supply risers where pressure from the mains is reduced to 80 psi (552 kPa) or less at individual fixtures.

**604.8.1 Valve design.** The pressure-reducing valve shall be designed to remain open to permit uninterrupted water flow in case of valve failure.

**Carolina Water Service, Inc.**  
**Utilities Services of South Carolina, Inc.**

**Water Meter Testing Form**

✓  
10/16/08

**Customer Data**

Name Roof  
Address 229 Dutchman Shores  
Subdivision Shores  
Account # \_\_\_\_\_

**Test Meter Data**

Brand Heisey  
Size 5/8  
Serial # 1030609

**Customer Meter Data**

Brand SENSUS  
Size 5/8  
Serial # 51696767-1

**Test Meter Readings**

Stop 510  
Start 410  
Total Gals. 100

**Customer Meter Data**

Stop 321400  
Start 321300  
Total Gals. 100

**% Accuracy** = Total Gals. Customer Meter ÷ Total Gals. Test Meter X 100 = 100 %

Note: Pursuant to the South Carolina Public Service Commission Rules and Regulation, Sub-Article III – Meters, Rule #R.103-722 (Meter Accuracy and Condition):  
**Meters shall be correct to within 3% (97% - 103%).**

**Recommendations: (choose one)**

- ☒ Meter is within 3% of accuracy and will remain in service.  
☐ Meter is not within 3% accuracy and will be replaced.

**New Meter Information**

Brand \_\_\_\_\_  
Serial# \_\_\_\_\_  
Reading \_\_\_\_\_  
Date Inst. \_\_\_\_\_

- ☐ Meter will be removed for Testing by an Independent company.

Additional Comments:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date Performed 10-15-08 Operator D. Byrd  
Customer Signature \_\_\_\_\_

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2009-99-W**

IN RE:

Judy B. Roof,  
Complainant/Petitioner,

v.

Utilities Services of South Carolina, Inc.,  
Defendant/Respondent

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**MOTION TO DISMISS**

Pursuant to 26 S.C. Code Ann. Regs. R. 103-829 (Supp. 2008), Utilities Services of South Carolina, Inc. ("USSC" or "the Company") herein moves the Public Service Commission of South Carolina ("Commission") to dismiss the above-captioned matter on the ground that the Commission lacks jurisdiction over the "Complaint/Petition" filed in the above-referenced docket.

Specifically, under S.C. Code Ann. §58-5-270 (Supp. 2008), the Complaint/Petition must be filed with and mediated by the Office of Regulatory Staff ("ORS"). The Complaint/Petition contains matter which was not brought to the attention of USSC by the complainant/petitioner prior to the filing of the Complaint/Petition and no mediation before ORS has taken place on any of the matter set forth in the Complaint/Petition. Accordingly, complainant/petitioner has failed to exhaust a statutory remedy and the Commission therefore lacks jurisdiction.

For the foregoing reason USSC respectfully moves that Complaint/Petition be dismissed.

/s/ John M. S. Hoefer

John M.S. Hoefer

Benjamin P. Mustian

**WILLOUGHBY & HOEFER, P.A.**

Post Office Box 8416

Columbia, South Carolina 29202-8416

803-252-3300

Attorneys for Defendant/Respondent

Columbia, South Carolina  
This 8<sup>th</sup> day of April, 2009